

0005

C/007/005 Incoming

Q



KATHY L. BRITTIN  
Risk Manager

January 13, 2009

**Via UPS Next Day**

Ms. Angela Nance  
Utah Department of Natural Resources  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84114-5801

Re: Canyon Fuel Company  
Permit # ACT/007/005  
Replacement Bond

Dear Ms. Nance:

Thank you for your help regarding the reclamation agreement date. As we discussed we are changing surety companies, I have enclosed a fully executed bond issued by Rockwood Casualty Insurance Company, bond #SUR0000311 which is to replace the existing bond issued by St. Paul Fire and Marine Insurance Company, bond #400SA1919 for the above referenced permit.

I would appreciate any assistance you could give me in promptly releasing the St. Paul bond and providing me with a copy of the release. This will enable us to be released from any further premium obligations associated with the existing bond.

I trust you will find the enclosure to be in order. If you have any questions, please do not hesitate to give me a call at (314) 994-2800.

Sincerely,

A handwritten signature in black ink that reads "Kathy".

Kathy Brittin  
Risk Manager

Enclosures

cc: Greg Galecki, CFC

**RECEIVED**

**JAN 14 2009**

**DIV. OF OIL, GAS & MINING**

Exhibit "A"- **PERMIT AREA**

Permit Number: ACT/007/005

Effective Date: December 19, 2008

**PERMIT AREA**

In accordance with the RECLAMATION AGREEMENT, the PERMITEE intends to conduct coal mining and reclamation activities on or within the PERMIT AREA as described hereunder: (The bonded area equals the disturbed area.)

Total acres within the approved PERMIT AREA: 7,037

Total acres of proposed DISTURBED AREAS within Permit Area: 74.31

Legal Description of Permit Area:

Township 13 South, Range 6 East, SLBM

All or portions of Sections 10, 11, 13, 14, 15, 22, 23, 24,  
25, 26, 27, 34, 35, and 36.

Township 13 South, Range 7 East, SLBM

All or portions of Sections 4, 5, 17, 18, and 19.

Township 14 South, Range 6 East, SLBM

All or portions of Sectins2 and 3.

As described more precisely in the Skyline Mining and Reclamation Permit on file with  
the Division of Oil, Gas, and Mining.

This is the **PERMIT AREA** covered by the reclamation surety provided in Exhibit B.

**IN WITNESS WHEREOF** the **SURETY** has hereunto set its signature and seal this

19th day of December, 2008

Rockwood Casualty Insurance Company

**SURETY**

By: TARA W. MEALER

Title: Tara W. Mealer, Attorney-in-Fact

**EXHIBIT "B"**

**Bonding Agreement  
Surety Bond**

(Federal Coal)

Surety Bond Number SUR0000311

**EXHIBIT "B"**  
**SURETY BOND**  
**(FEDERAL COAL)**  
**--ooOOoo--**

This **SURETY BOND** entered into and by and between the undersigned **PERMITTEE/PRINCIPAL CANYON FUEL COMPANY, LLC**, and **SURETY Rockwood Casualty Insurance Company**, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining (hereafter referred to as the "**DIVISION**"), and the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement (hereafter referred to as "**OSM**") in the penal sum of Five Million One Hundred Thirty Seven Thousand and 00/100 (\$5,137,000.00) for the timely performance of reclamation responsibilities of the Permittee in the Bonded Area described in Exhibit "A" of that certain **RECLAMATION AGREEMENT**, dated the 9TH day of MAY, 2001 by and between the **DIVISION** and the **PERMITTEE/PRINCIPAL**.

This **SURETY BOND** shall remain in effect until all of the **PERMITTEE'S/PRINCIPAL'S** reclamation obligations have been met and released by the **DIVISION** with the concurrence of **OSM** and is conditioned upon faithful performance of all of the requirements of the Utah Coal Mining Reclamation Act, Utah Code Ad. §40-12-2 et. seq. (the **ACT**), the Surface Mine Control and Reclamation Act ("**SMCRA**"), and all lawful regulation adopted under the authority of those statutes, and the approved Permit (which is based upon the approved Permit Application Package).

The **SURETY** will not cancel this bond at any time for any reason, including non-payment of premium or bankruptcy of the **PERMITTEE/PRINCIPAL** during the period of liability.

The **SURETY** and their successors and assigns, agree to guarantee the obligation and to indemnify, defend, and hold harmless the **DIVISION** and **OSM** from any and all expenses which the **DIVISION** may sustain as a result of the **PERMITTEE'S/PRINCIPAL'S** failure to comply with the condition(s) of the reclamation obligation.

The **SURETY** will give prompt notice to the **PERMITTEE/PRINCIPAL**, the **DIVISION** and **OSM** of any notice received or action alleging the insolvency or bankruptcy of the **SURETY**, or alleging any violations or regulatory requirements which could result in suspension or revocation of the **SURETY'S** license.

Upon incapacity of the **SURETY** by reason of bankruptcy, or suspension or revocation of license, the **PERMITTEE/PRINCIPAL** shall be deemed to be without Bond coverage in violation of state and federal law and subject to enforcement in accordance with **SMCRA**, the **ACT**, and the applicable regulations.

Surety Bond Number SUR0000311

Mine Name/Number \_\_\_\_\_

The terms for release of this **BOND** are as written and agreed to by the **DIVISION** and the **PERMITTEE/PRINCIPAL** in the **RECLAMATION AGREEMENT**, incorporated by reference herein, to which this **SURETY AGREEMENT** has been attached as Exhibit "B".

In the event the Utah Cooperative Agreement is terminated, this **SURETY BOND** shall be payable only to the OSM to the extent that lands covered by the Federal Lands Program are involved and otherwise to the **DIVISION**.

IN WITNESS WHEREOF, the **PERMITTEE/PRINCIPAL** has hereunto set its signature and seal this 7th day of January, 2009.

Canyon Fuel Company, LLC

**PERMITTEE/PRINCIPAL**

By: James E. Florczak

James E. Florczak

Title: Vice President & Treasurer

IN WITNESS WHEREOF, the **SURETY** has hereunto set its signature and seal this 19<sup>th</sup> day of December, 2008.

Rockwood Casualty Insurance Company

**SURETY**

By: TARA W. MEALER

Title: Tara W. Mealer, Attorney-in-Fact

**SURETY BONDING AGREEMENT ACCEPTED BY THE STATE OF UTAH:**

\_\_\_\_\_  
Director

Division of Oil, Gas and Mining

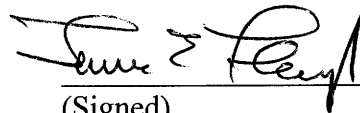
**NOTE:** An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent/or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with the Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.

**AFFIDAVITS  
OF  
QUALIFICATION**

**AFFIDAVIT OF QUALIFICATION  
PERMITTEE**

--ooOOoo--

I, James E. Florczak, being first duly sworn under oath, deposes and says that he/she is  
the (officer or agent) Vice President & Treasurer of Canyon Fuel Company, LLC;  
and that he/she is duly authorized to execute and deliver the foregoing obligations; and  
that said PERMITTEE is authorized to execute the same and has complied in all respects with the  
laws of Utah in reference to commitments, undertakings and obligations herein.

  
(Signed) James E. Florczak - Vice President & Treasurer  
Name - Position

Subscribed and sworn to before me this 7th day of January, 2009.

  
Notary Public - Kristin L. Walker

My Commission Expires:  
September 23 , 2012.



Attest:

STATE OF Missouri )

) ss:

COUNTY OF St. Louis )

**AFFIDAVIT OF QUALIFICATION  
SURETY COMPANY**

--ooOOoo--

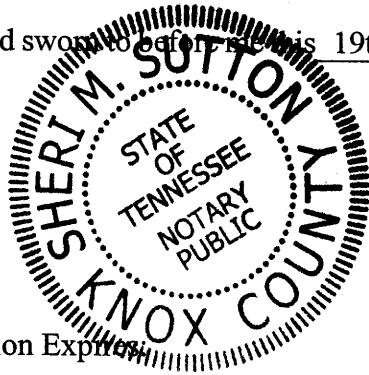
I, Tara W. Mealer, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) Attorney-in-Fact of Rockwood Casualty Insurance Company; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said SURETY COMPANY is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations herein.

Rockwood Casualty Insurance Company

TARA W. MEALER

(Signed) Tara W. Mealer, Attorney-in-Fact  
Surety Company Officer - Position

Subscribed and sworn to before me this 19th day of December 2008



Sheri M. Sutton  
Notary Public - Sheri M. Sutton

My Commission Expires

September 26 , 2012

Witness: Mary Y. Volmar  
Mary Y. Volmar

STATE OF Tennessee )

) ss:

COUNTY OF Knox )



**Rockwood Casualty Insurance Company**  
**654 Main Street**  
**Rockwood, PA 15557**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the Rockwood Casualty Insurance Company, a Corporation duly organized and existing under the laws of the State of Pennsylvania and having its principal office in the County of Somerset, Pennsylvania does hereby nominate, constitute and appoint:

Joseph R. Poplawski, Elizabeth A. Hartzberg, Tara W. Mealer, Mary Y. Volmar, Deborah S. Hudgins

its true and lawful agent and attorney-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$8,129,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Rockwood Casualty Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Rockwood Casualty Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Rockwood Casualty Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 15th day of September, 2008.

Rockwood Casualty Insurance Company

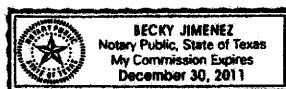
By: Robert F. Thomas  
 Robert Thomas, Vice President

STATE OF TEXAS

COUNTY OF BEXAR SS:

On this 15th day of September, 2008 A.D., before me, a Notary Public of the State of Texas, in and for the County of Bexar, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Bexar, the day and year first above written.



Becky Jimenez

(Notary Public)

I, the undersigned Officer of the Rockwood Casualty Insurance Company, a Pennsylvania Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 19th day of December, 2008.

Joshua C. Betz  
 Joshua C. Betz, Assistant Vice President

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON SHADED BACKGROUND WITH RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. IF YOU HAVE QUESTIONS ON AUTHENTICITY OF THIS DOCUMENT CALL (281) 378 - 8077.